



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**Via Email and First Class Mail**

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**AUG 14 2018**

RE: MUR 7466 (formerly RR 18L-16)  
Democratic Executive Committee of Florida  
and Francesca Menes in her official  
capacity as treasurer

Dear Mr. Reiff:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting your client, Democratic Executive Committee of Florida and Francesca Menes in her official capacity as treasurer (the "Committee"), may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On March 26, 2018, the Commission notified the Committee that it was being referred to the Commission's Office of General Counsel for possible enforcement action under 52 U.S.C. § 30109. On August 7, 2018, the Commission found reason to believe that the Committee violated 52 U.S.C. § 30104(b)(1) and (2), provisions of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is enclosed for your information.

We have also enclosed a brief description of the Commission's procedures for handling possible violations of the Act. In addition, please note that the Committee has a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519. This matter will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.<sup>1</sup>

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<sup>1</sup> The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

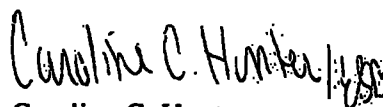
In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to your client as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that your client violated the law. Enclosed is a conciliation agreement for your consideration

If your client is interested in engaging in pre-probable cause conciliation, please contact Anne B. Robinson, the attorney assigned to this matter, at (202) 694-1356 or (800) 424-9530, within seven days of receipt of this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days. See 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if your client is not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

Pre-probable cause conciliation, extensions of time, and other enforcement procedures and options are discussed more comprehensively in the Commission's "Guidebook for Complainants and Respondents on the FEC Enforcement Process," which is available on the Commission's website at <http://www.fec.gov/respondent.guide.pdf>.

We look forward to your response.

On behalf of the Commission,



Caroline C. Hunter  
Chair

Enclosures  
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

2  
3 **FACTUAL AND LEGAL ANALYSIS**

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5 **RESPONDENTS:** Democratic Executive Committee of Florida MUR 7466  
6 and Francesca Menes in her official  
7 capacity as treasurer

8 **I. INTRODUCTION**

9 This matter was generated based on information ascertained by the Federal Election  
10 Commission (the "Commission") in the normal course of carrying out its supervisory  
11 responsibilities, *see* 52 U.S.C. § 30109(a)(2). The Reports Analysis Division ("RAD") referred  
12 the Democratic Executive Committee of Florida and Francesca Menes in her official capacity as  
13 treasurer ("DECF" or the "Committee") to the Office of General Counsel for disclosing a cash-  
14 on-hand discrepancy of \$155,789.90 on its 2014 February Monthly Report and additional  
15 receipts totaling \$114,168.85 on its 2014 Year-End Report.<sup>1</sup> For the reasons set forth below, the  
16 Commission finds reason to believe that the Committee violated 52 U.S.C. § 30104(b)(1) and (2)  
17 by failing to accurately disclose its cash-on-hand and receipts.

18 **II. FACTUAL BACKGROUND**

19 The Committee is a state party committee of the Democratic Party.<sup>2</sup> On August 14,  
20 2014, the Committee filed an Amended 2013 Year-End Report disclosing an ending cash-on-  
21 hand balance of \$108,308.06,<sup>3</sup> and on the following day, the Committee filed an Amended 2014

<sup>1</sup> RAD Referral, Democratic Executive Committee of Florida (Mar. 26, 2018) ("Referral"), incorporated herein by reference.

<sup>2</sup> *See* Amended Statement of Organization, DECF (Dec. 1, 2016).

<sup>3</sup> Referral at 2.

9 *Id.*

1 on the Amended 2014 Year-End Report.<sup>10</sup> The Committee did not respond to either RFAI. On  
2 February 8, 2018, RAD informed the Committee that the cash-on-hand discrepancy and  
3 increased activity would be referred for further action.<sup>11</sup>

### 4 III. LEGAL ANALYSIS

5 The Federal Election Campaign Act of 1971, as amended (the “Act”), requires committee  
6 treasurers to file reports of receipts and disbursements in accordance with the provisions of  
7 52 U.S.C. § 30104.<sup>12</sup> These reports must include, *inter alia*, the total amount of receipts,  
8 including the appropriate itemizations, where required, and its cash-on-hand.<sup>13</sup> Here the  
9 Committee did not comply with the Act’s reporting requirements when it disclosed a cash-on-  
10 hand discrepancy of \$155,789.90 and failed to disclose \$114,168.85 in increased activity.

11 The Committee responds that it conducted an internal audit covering 2014 to 2018 after  
12 determining that the “currently disclosed cash on hand did not properly reflect actual cash on  
13 hand.”<sup>14</sup> During the internal audit, the Committee discovered a cash-on-hand discrepancy of  
14 \$155,789.90 as of January 1, 2014, which the Committee disclosed on its second Amended 2014  
15 February Monthly Report, which it filed on October 10, 2017.<sup>15</sup> Although the Committee  
16 believes that the discrepancy is likely the result of reporting errors made before January 1, 2014,

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<sup>10</sup> *Id.* at 2-3; RFAI, Amended 2014 Year-End Report, DECF (Dec. 13, 2017) (providing a response due date of January 17, 2018); RFAI, Amended 2014 February Monthly Report, DECF (Dec. 13, 2017) (same).

<sup>11</sup> *Id.* at 3.

<sup>12</sup> 52 U.S.C. § 30104(a)(1); 11 C.F.R. § 104.1(a).

<sup>13</sup> *See* 52 U.S.C. § 30104(b)(2); 11 C.F.R. § 104.3(a).

<sup>14</sup> DECF Resp. at 1 (May 14, 2018) (“Resp.”).

<sup>15</sup> *Id.*

1 it chose not to go farther back in time due to its limited time and resources and the five-year  
2 statute of limitations.<sup>16</sup>

3 The Committee further states that the additional \$114,168.85 in receipts disclosed on the  
4 Amended 2014 Year-End Report were originally reported as received on September 30, 2014.<sup>17</sup>  
5 During the internal audit, the Committee determined that the transfer resulting in the receipts  
6 actually occurred on December 3, 2014, and amended its reports by moving the transfer from the  
7 2014 October Monthly Report to the 2014 Year-End Report.<sup>18</sup>

8 The Committee contends that it spent \$70,000 to conduct the internal audit, and therefore,  
9 the Commission should take no action or assign this matter to ADRO.<sup>19</sup> However, this matter  
10 was appropriately referred to OGC, the Committee acknowledges its reporting errors, and it  
11 signed conciliation agreements in 2015 and 2016 resolving similar increased activity violations.<sup>20</sup>  
12 Accordingly, the Commission finds reason to believe that the Committee violated 52 U.S.C.  
13 § 30104(b)(1) and (2).

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<sup>16</sup> *Id.* at 1-2.

<sup>17</sup> *Id.* at 2.

<sup>18</sup> *Id.* The Committee states that September 30, 2014 was the date the transfer was intended to occur. *Id.* Although the transfer was reported on the 2014 October Monthly Report, the Committee did not simply move the transfer from one report to another. The Committee also substantially modified its description of the transfer, changing, *inter alia*, the portion designated as "Total Administrative" from \$9,122.62 to \$113,317.67 and listing an entirely different activity and amount under "Direct Fundraising." Compare 2014 October Monthly Report at 376, DECF (Oct. 20, 2014) with Amended 2014 Year-End Report at 213, DECF (Oct. 20, 2017).

<sup>19</sup> Resp. at 1-2.

<sup>20</sup> MUR 7026 (DECF) (RAD referral involving failure to disclose certain receipts for the 2013-2014 election cycle); MUR 6923 (DECF) (RAD referral involving failure to disclose certain receipts and disbursements in 2010 and 2011, encompassing the 2009-2010 and 2011-2012 election cycles).